



## **JUDGE MARINA GARCIA MARMOLEJO**

United States Courthouse  
1300 Victoria St. Ste. 2267  
Laredo, TX 78040  
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Fax: (956) 726-2900

Angie Treviño, Case Manager  
Tel: (956) 790-1364  
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## **COURT PROCEDURES IN CIVIL CASES**

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THESE PROCEDURES MUST BE SERVED WITH THE SUMMONS AND COMPLAINT OR REMOVAL PAPERS and are to be used in conjunction with the Local Rules for the Southern District of Texas and not as a substitute for them. The Local Rules of this District can be obtained on the District website at [www.txs.uscourts.gov](http://www.txs.uscourts.gov). The Court requires strict compliance with these Local Rules.

*Updated February 27, 2013*

## 1. CONTACT WITH COURT PERSONNEL

- A. The Court requires that parties will file documents through the District Court's Case Management/Electronic Case Filing ("CM/ECF") System. *See* Southern District of Texas Local Rule 5.1 (LR 5.1) and the District's Administrative Procedures for CM/ECF (as amended and available at the District's website, [www.txs.uscourts.gov](http://www.txs.uscourts.gov)).
- B. Case-related telephone and email inquiries **are strictly limited to procedural matters** and should be made only to the Case Manager. Inquiries should not be made to the Court's secretary or law clerks. The Court's caseload does not allow the Case Manager to respond to casual telephone inquiries about the status of motions or cases. All inquiries to the Case Manager should be by letter sent or delivered to Chambers, or by email. *See* below.
- C. Information about the status of documents, entry of orders, or docket entries should be obtained from the CM/ECF or Pacer Systems, or if absolutely necessary, from the United States District Clerk's Office at (956) 723-3542.
- D. Correspondence with the Court must be delivered or sent to the Court's Chambers:
  - 1) Case-related correspondence should be addressed to:  
  
**Angie Treviño**  
**Case Manager to District Judge Marina Garcia Marmolejo**  
**1300 Victoria St., Ste. 2267**  
**Laredo, TX 78040**  
  
Or by email: [angie\\_trevino@txs.uscourts.gov](mailto:angie_trevino@txs.uscourts.gov)
  - 2) **Do not** address substantive issues in letter or email form. The parties must file copies of all letters. Email correspondence with the Court will be docketed at the Court's discretion.
  - 3) Copies of urgent documents (including letters) may be sent by First Class Mail, emailed, or hand-delivered to Chambers (*see* Emergencies, § 3 below), to the Court's Case Manager, with copies to all parties. Service copies must be transmitted to all counsel of record simultaneously with (or prior to) and in the same manner as the document is transmitted to the Court. The documents may **not** be faxed without express prior permission of the Court.

## 2. COURTESY COPIES OF DOCUMENTS

- A. Letters to the Court may be hand-delivered, sent by First Class Mail to Chambers, or transmitted by email, with copies to all parties served prior to or at the time of filing. *See* addresses above. Letters concerning discovery and scheduling matters must be filed in the docket.
- B. The parties **must** forward promptly to Chambers courtesy copies of (i) all documents that exceed ten (10) pages in length, including exhibits and attachments, and (ii) documents pertaining to matters to be heard by the court within seven (7) days after the document is filed. Unless this rule is followed, the court will not consider any documents filed within seven (7) days of any court appearance. **Do not fax or email** copies of documents to Chambers unless specifically authorized to do so by the court.

## 3. EMERGENCIES

- A. Applications for restraining orders or for other immediate relief shall be filed electronically through the CM/ECF system and all related communications with the Court must be through the Case Manager.
  - 1) Such applications shall be presented to the Court by the Case Manager following counsel's affirmation that the opposing party has been contacted and that both parties can be available for a conference before the Court, or an explanation of why such contact is not legally required.
  - 2) *Ex parte* applications for restraining orders will **not** be entertained by the Court unless the requirements of FED. R. CIV. P. 65(b) have been satisfied.
- B. Motions for extension of deadlines or cut-off dates in the Docket Control Order are **not** emergencies. (*See* Continuances, § 4 below.)

## 4. CONTINUANCES

- A. Motions for continuance **must be filed at least three (3) business days prior to date of the controlling deadline** and will be granted only at the Court's discretion. **Motions for continuance filed on the date of the deadline, absent a showing of good cause, will not be granted.**
- B. Agreements or joint motions among counsel for continuance are not binding on the Court. Parties must notify the Court of agreed continuances by submitting an agreed motion and proposed order.

- C. A trial will **not** be continued because of the unavailability of a witness. Counsel are expected to anticipate such possibilities and should be prepared to present testimony by written deposition, videotaped deposition, or by stipulation.

## 5. APPEARANCES

- A. An attorney who appears at a hearing or conference **must**:
  - 1) be familiar with the case,
  - 2) have authority to bind the client, and
  - 3) be in charge for that appearance.
- B. All counsel wishing to appear at a conference or hearing by telephone must submit a written request by e-mail to the Case Manager as far in advance of the conference as reasonably possible. The Court will attempt to accommodate such requests.
- C. Failure to appear when notified of a setting may subject the attorney and/or his or her client to sanctions, including dismissal for want of prosecution and/or other appropriate order or judgment.
- D. Motions for admission *pro hac vice* shall include the attorney applicant's averment that he or she has familiarized him/herself with the Local Rules of the Southern District of Texas **and** these Procedures applicable to civil cases before Judge Garcia Marmolejo. (*See* attached form, also available at the Court's website.)

## 6. MOTION PRACTICE

- A. **General Guidelines.** The Court follows the written motion practice described in the Local Rules. In addition, the following procedures apply:
  - 1) Counsel must make serious and timely efforts to confer opposing counsel on all motions to try to reach agreements on the relief to be requested by movant.
  - 2) Every non-dispositive motion must contain a certificate of conference. Failure to comply may result in the party's pleading being denied or stricken.
  - 3) All motions except summary judgment motions filed pursuant to FED. R. CIV. P. 56 must be accompanied by a separate proposed order granting or denying the relief requested.

- 4) Opposed motions generally will be considered by the Court after expiration of 28 days from the motion filing date. Responses by the non-movant must be filed within 21 calendar days of the motion. Movant's reply must be filed within 7 calendar days after the non-movant's response.

When circumstances dictate, the Court may consider a motion prior to expiration of the 28 day period.

The parties by agreement may extend a motion submission day, but must give the Court prompt written notice of the agreement, with a proposed order granting the extension. Parties' agreed extensions in violation of a Court-imposed deadline require Court approval.

- 5) Because most motions will be ruled on without an oral hearing, focused, clear motion papers are very important. Requests for oral argument on motions are not necessary. The Case Manager will notify counsel should the Court determine that oral argument would be beneficial.
- 6) All pleadings or other documents filed under seal in a civil case must be identified as "SEALED" in the title of the document. For example, a motion for summary judgment filed under seal must be docketed as "MOTION for Summary Judgment (SEALED)." No pleading may be filed for docketing simply as "SEALED DOCUMENT" without advance permission of the Court.
- 7) Any pleadings filed with the court, including exhibits thereto, containing personal data identifiers must comply with the S.D. Texas General Order #2004-11 (available at the District's website) on protecting personal privacy in public case files.

**B. Submitted Motions – Need for Expedited Decision.**

1. The Court will rule on motions as soon as possible after the submission day or a response is filed. *See* § 6.A.4 above. Counsel of record and *pro se* parties will be furnished with copies of orders.
2. If a pending motion requires resolution on an expedited basis, please advise the Court by letter.

**E. Discovery and Scheduling Disputes.**

1. The court believes that most discovery and schedule-related disputes, especially those dealing with (i) scheduling, (ii) the number, length

and form of oral and written questions, (iii) the responsiveness of answers to oral and written questions, and (iv) the mechanics of document productions, including protective orders and the proper method of raising claims of privilege, can be resolved by counsel without the intervention of the court. **Counsel are responsible for conferring in good faith to resolve discovery and scheduling disputes.**

2. If counsel for the parties are unable to reach an agreement, the motion **MUST** contain a certificate of conference pursuant to LR 7.1D **and** specify the date, time and place of the parties' prior out-of-court discovery or scheduling discussion(s), the names of all counsel participating therein, and give a brief summary of the results of the discussions.

## **7. MEMORANDA OF LAW**

A. **Page Limits and Briefing Requirements.** The Court requires concise, pertinent and well organized memoranda of law. Without leave of Court, all memoranda of law are limited to 25 pages, 12-point type-font, double-spaced, with 1" margins. All memoranda of law must contain items 3, 4, 6, and 7 below. Any memorandum that has more than ten (10) pages of argument must contain the following eight (8) items.

- 1) A table of contents setting forth the page number of each section, including all headings designated in the body of the brief or memorandum.
- 2) A table of citations of cases, statutes, rules, textbooks and other authorities, alphabetically arranged.
- 3) A short statement of the nature and stage of the proceeding.
- 4) A statement of the issues to be ruled upon by the Court and, with respect to each issue a short statement (supported by authority) of the standard of review.
- 5) A short summary of the argument.
- 6) Succinct headings dividing the argument into separate points.
- 7) A short conclusion stating the precise relief sought.
- 8) Proposed orders (except on summary judgment motions).

**B. Copies of Authorities and Other Material Cited.**

- 1) Please append copies of cases and the relevant parts of authorities that are cited in a brief, memorandum, or motion only if the authorities are **not** published or reasonably available through Westlaw or Lexis-Nexis.
- 2) Copies of supporting affidavits, deposition testimony excerpts, and other discovery referred to in the briefs should be separately filed in one or more appendices of no more than 40 pages each.
- 3) All appendices should contain a table of contents, and courtesy copies of appendices or those filed conventionally (*i.e.*, not electronically) should be tabbed at the right margin to facilitate location of the materials cited.

**8. INITIAL PRETRIAL CONFERENCES AND DOCKET CONTROL ORDERS**

Please refer to LR 16.1 and Section 5 above (“Appearances”) for general procedures for conferences. In addition:

- A. After a party files or removes a case, the Court will issue an order providing a deadline by which the joint discovery/case management plan must be filed.
- B. At the Initial Pretrial Conference in civil cases, the Court will enter a Docket Control Order.
  - 1) The parties may agree on deadlines for completion of pretrial matters and file a proposed Docket Control Order to the Initial Pretrial Conference.
  - 2) The Docket Control Order will govern throughout the case. The Docket Control Order deadlines shall **not** be modified except by leave of this Court upon a showing of good cause.
  - 3) If a change to an existing Docket Control Order is requested, the parties shall submit recommendations for adjusting all dates in the Docket Control Order that follow the date sought to be modified.
  - 4) Counsel shall include in their filings their email addresses.
- C. **Added Parties.** If new parties are joined after entry of the Docket Control Order, the party causing such joinder shall provide to the new parties copies of: (i) all orders and pleadings previously filed in the case, (ii) the operative Docket Control Order, and (iii) these Court Procedures.

## 9. REQUIRED TRIAL MATERIALS

A. **Joint Pretrial Order.** Joint Pretrial Orders must be signed by all counsel. All parties are responsible for complying with all requirements to prepare the Joint Pretrial Order.

- 1) Plaintiff is primarily responsible for ensuring that a complete Joint Pretrial Order is filed timely. A form Joint Pretrial Order is attached and is available in the Court's website. It should be followed, but may be adapted, within reason, to accommodate the size and nature of the case. If plaintiff fails to file the Joint Pretrial Order, then the defendant is responsible for filing defendant's portions of a Proposed Pretrial Order in the Joint Pretrial Order format.
- 2) Plaintiff must deliver to Court's Chambers a courtesy copy of the Joint Pretrial Order with all attachments.
- 3) Failure to file the Joint Pretrial Order timely will subject counsel and the client to sanctions, including dismissal for want of prosecution and/or other appropriate relief. This applies also to parties appearing *pro se*.

B. **Other Required Documents.** With the filing of the Joint Pretrial Order, each party also must file:

- 1) **For All Trials and Evidentiary Hearings:**
  - a. **Exhibit List** (*see* attached form, also available at the Court's website).
  - b. **Witness List** for live witnesses (*see* attached form, also available at the Court's website).
  - c. **Designation** of deposition excerpts for witnesses being called by deposition. A copy of each deposition excerpt must be provided to the Court.
  - d. **Objections**, if any, to an opponent's exhibits, witnesses or depositions excerpts **must be filed within fourteen (14) calendar days prior to the scheduled trial date. This time limit supersedes LR 46.**
- 2) **For Jury Trials:**
  - a. **Voir Dire:** Counsel will be generally allowed 15-35 minutes (depending on the complexity of the case) to conduct an



examination of the venire, provided that the proposed *voir dire* questions are submitted as part of the Joint Pretrial Order.

- b. **Jury Instructions:** The parties must file a single, joint proposed jury charge, including all necessary instructions, definitions and questions. The proposed charges must also be submitted electronically in a CD in Corel WordPerfect or Microsoft Word.
    - i) **Each** requested **instruction** must be numbered and presented with authority.
    - ii) The parties shall include in the proposed jury charge all necessary instructions or definitions. The instructions shall, at a minimum, include: (1) the *prima facie* elements of each cause of action and defense asserted, (2) legal definitions required by the jury, (3) items of damages, and (4) methods of calculation of damages. Counsel are to use the Fifth Circuit Pattern Jury Instructions, as modified by case law or statutory amendments, whenever possible. Any deviations must be identified, and accompanied with legal authorities for the proposed deviation.
    - iii) Even if the parties, in good faith, cannot agree on all instructions, definitions or questions, the parties should nonetheless submit a single, **unified charge**. Each disputed instruction, definition, or question should be set out in bold type, underlined or italics and identified as disputed. Each disputed item should be labeled to show which party is requesting the disputed language. Accompanying each instruction shall be all authority or related materials upon which each party relies.
  - c. The parties shall submit a **trial memorandum of law** addressing the law governing the case and all contested issues.
- 3) For **Non-Jury Trials**, each party must file:
- a. **Proposed Findings of Fact** (electronically in Corel WordPerfect X3 or higher, or Microsoft Word). Counsel are strongly encouraged to include references to testimony and exhibits which support each proposed finding;
  - b. **Proposed Conclusions of Law** (electronically in Corel WordPerfect X3 or higher, or Microsoft Word). Each

proposed conclusion of law will contain citation of legal authority supporting the conclusions; and

- c. **Memorandum of Law.** The memorandum of law, proposed findings, and proposed conclusions should, at a minimum, address the following: (1) the *prima facie* elements of each cause of action and defense asserted, (2) legal definitions, (3) components of damages, and (4) methods of calculation of damages.

## 10. TRIAL SETTINGS

- A. The Court sets trial dates at Docket Call in civil cases. Docket Call is a final pretrial conference. Parties should be prepared to answer questions on all pending motions. Pending motions may be ruled on at Docket Call. Trial may be set for any day after the Docket Call.
- B. Unless an attorney has actually commenced trial in court, another trial setting will not cause the Court to pass a trial setting in a case.
- C. Information on Trial Settings: The Case Manager cannot definitively ascertain when a case will be reached or where a case is on the trial docket. Any predictions given by the Case Manager are only “educated guesses” and are NOT binding on the Court.

## 11. EXHIBITS

- A. All exhibits must be **pre-marked** and exchanged among counsel at the time the Pretrial Order is filed, unless a later date is agreed to by counsel. Generally, in civil cases, exhibits that have not been disclosed to opposing counsel **prior** to trial will not be received in evidence. The offering party shall mark its name, the case number, and the exhibit number on each exhibit to be offered. Any exhibits containing personal data identifiers must comply with S.D. Texas General Order #2004-11 (available at the District website).
- B. **Authentication Objections.** Counsel requiring authentication of an opponent’s exhibit must notify offering counsel in writing within seven (7) days after the exhibit is identified and made available for examination. Failure to do so is an admission of authenticity. *See* LR 44.1.
- C. **Other Objections to Exhibits.** Unless otherwise directed by the Court, a party in a civil case may offer in evidence any exhibits listed in the final Joint Pretrial Order *unless* opposing counsel files specific **written objections within fourteen (14) calendar days prior to the scheduled trial date. This time limit supersedes LR 46.** The Court endeavors to rule on objections to

exhibits outside the presence of the jury and will do so prior to opening statements, to the extent possible.

- D. **Copies of Exhibits.** The parties must provide the Court with two (2) complete sets of exhibits for use at trial in a properly tabbed and indexed notebook.
- E. **Trial Procedure as to Exhibits.**
  - 1) Counsel may **not** pass exhibits to the jury during trial without obtaining permission in advance from the Court.
  - 2) Exhibits must be identified in front of the jury before they will be received in evidence. Only exhibits admitted during trial will go to the jury during its deliberations.
- F. **Disposition of Exhibits.** Counsel should become familiar with LR 79.2 regarding disposition of exhibits following trial.

## 12. EQUIPMENT

- A. **Sound and Video Equipment.** The Court has projection, document camera, sound and video equipment in the courtroom. Counsel are invited to use that equipment during trial. Counsel who seek to test the equipment prior to trial shall contact the Case Manager by e-mail, letter or phone to make arrangements to test the equipment. Parties also may provide their own equipment, but special arrangements must be made with the Case Manager **prior** to the day of trial.
- B. **Other.** Easels with writing pads are available for use in the Courtroom, upon request to the Case Manager prior to trial.

## 13. COURTROOM PROCEDURES

- A. **Hours.** The Court's hours during trial will vary depending upon the type of case and the needs of the parties, counsel, witnesses, and the Court. Court normally will convene at 8:30 a.m. and adjourn by 5:30 p.m., with a 12:00 to 1:30 p.m. lunch recess.
- B. **Access at Other Times.**
  - 1) Counsel needing access to the Courtroom to set up equipment or exhibits must arrange access in advance with the Case Manager or chambers to have the Courtroom open.

- 2) Enter and leave the Courtroom only by the front doors; do not use the Court's entrance or the side entrances without permission.
- C. **Telephones.** Telephone messages for counsel generally will **not** be taken by the Judge's staff, and counsel shall refrain from requesting use of telephones in Chambers.
- D. **Filing of Documents.** Handing documents to the Court or Case Manager does **not** constitute filing of the documents in the CM/ECF system.
- 1) All original documents must be filed through the CM/ECF system.
  - 2) Copies of documents filed within seven (7) days prior to and during trial should be submitted to the Case Manager **in duplicate**.
- E. **Decorum.**
- 1) Counsel and parties will comply with LR 83.9 regarding Courtroom Behavior. These procedures are strictly enforced.
  - 2) Counsel shall stand when addressing the Court. Counsel may use a lectern positioned appropriately to make oral argument. Counsel may question witnesses standing at the lectern or seated at counsel table.
  - 3) Counsel will ensure that they, all parties, and all witnesses refrain from drinking (other than water), eating, smoking, or reading newspapers, books, etc. in the Courtroom. No telephone beepers, pagers, or cellular phones are allowed to be operated in the Courtroom.
- F. **Witnesses.**
- 1) Counsel are responsible for summoning witnesses into the Courtroom and instructing them on Courtroom decorum. Witnesses may be questioned by the attorney seated at counsel table or standing at the lectern.
  - 2) Counsel should bear in mind the Court's hours and arrange for witnesses accordingly. The Court will not recess to permit counsel to call a missing witness, unless he or she has been subpoenaed and has failed to appear.
  - 3) Counsel shall make every effort to elicit from the witnesses only information relevant to the issues in the case and to avoid cumulative testimony.

G. **Seating Assignments.** The party with the burden of proof may be seated near the jury box.

H. **Jury Matters.**

1) While the jury is deliberating, counsel are to remain near the Courtroom to be immediately available for jury notes or a verdict, unless given permission to leave by the Court.

2) After the jury is excused, counsel may **not** contact jurors unless permitted to do so by the Court. *See* LR 47.

#### 14. DEPOSITIONS

A. The Court will accept the parties' agreement to use a deposition at trial even when the witness is available. Otherwise, parties must follow FED. R. CIV. P. 32.

B. Counsel will designate the portion of any deposition to be read by citing page and line numbers in the Joint Pretrial Order. Objections to those portions (citing page and line numbers) with supporting authority must be filed at least three (3) business days before trial.

C. Use of videotape depositions is permitted if counsel voluntarily edit them to resolve objections and incorporate rulings by the Court.

D. In a non-jury trial, counsel shall provide a list of the portions of the depositions offered as an exhibit, citing page and line numbers.

#### 15. SETTLEMENTS AND ORDERS OF DISMISSAL

A. **Motions resolved by the parties.** If the parties are able to resolve a pending motion without court intervention, they should advise the case manager **immediately**. The court will then deny the motion as moot.

B. **Settlements.** Counsel and *pro se* litigants shall notify the Court **immediately in writing** of the parties' settlement of any matter by filing a document in the case, such as an advisory letter, a joint stipulation or dismissal motion, as appropriate.

1) Upon receipt of parties' announcement of settlement, the Court will enter a 30- or 60-day conditional order of dismissal, which permits a party to move to reopen the case if final settlement cannot be completed within the allotted time.

- 2) Upon settlement of a suit involving a minor plaintiff, counsel must jointly move for appointment of a guardian *ad litem* if there is potential conflict of interest between the parent(s) and the minor.
  - a. If counsel cannot agree on a guardian *ad litem*, the Court will make the appointment. Counsel may submit the names of qualified attorneys they propose for the appointment.
  - b. Contemporaneously with the motion for appointment, counsel must notify the Case Manager by letter requesting a settlement conference.
- C. **Orders of Dismissal For Want of Prosecution.** Any defendant upon whom service has not been perfected within 120 days after the complaint is filed will be dismissed for want of prosecution in accordance with FED. R. CIV. P. 4(m).

## 16. ATTACHMENTS

- A. Template Joint Discovery/Case Management Plan
- B. Template Joint Pretrial Order
- C. Template Exhibit List
- D. Template Witness List
- E. Notice of the Right to Try a Civil Case before a Magistrate Judge
- F. Consent to Proceed before a Magistrate Judge/Order to Transfer
- G. Motion and Order for Admission *Pro Hac Vice*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
LAREDO DIVISION

|            |   |                              |
|------------|---|------------------------------|
| Plaintiff, | § |                              |
|            | § |                              |
|            | § |                              |
|            | § | CIVIL ACTION NO. 5: __-CV-__ |
|            | § |                              |
| vs.        | § |                              |
|            | § |                              |
|            | § |                              |
|            | § |                              |
| Defendant. | § |                              |

**JOINT REPORT REQUIRED BY FED. R. CIV. P. 26(f)**  
**AND JOINT DISCOVERY/CASE MANAGEMENT PLAN**

Please restate each instruction in **bold** before furnishing the requested information.

Any differences between parties as to the response(s) to any matter must be set forth in this report.

Preliminary Matters

1. State when and in what manner the parties conferred as required by Rule 26(f), and identify the counsel and/or parties who participated in the conference.
2. List cases pending in this, or any other district, with their cause number and judicial district, which are related to this case.
3. If any cases pending in this or another district, can and should this case be consolidated with those cases?
4. Briefly describe what this case is about.
5. What is the Plaintiff's allegation of federal jurisdiction?
6. Does/do the Defendant(s) agree or disagree with this allegation?
7. Does either party anticipate the need to add additional parties?
8. If so, list any additional parties and when they can be added.

9. List any anticipated interventions.

10. Is/are there any issues in this case which may raise class allegations or class action issues?

#### Discovery

11. The conference required by Rule 26(f) was held on \_\_\_\_\_, at \_\_\_\_\_.

Counsel and/or parties who participated in the conference are:

\_\_\_\_\_ for Plaintiff(s)\_\_\_\_\_.

\_\_\_\_\_ for Defendant(s)\_\_\_\_\_.

12. Describe the proposed discovery plan agreed upon at the conference. Include the following:

- a) What changes should be made in the timing, form or requirement for disclosures under Rule 26(a).
- b) When and to whom the plaintiff anticipates it may send interrogatories.
- c) When and to whom the defendant anticipates it may send interrogatories.
- d) Of whom and by what date the plaintiff anticipates taking oral depositions.
- e) Of whom and by what date the defendant anticipates taking oral depositions.
- f) When the plaintiff (or the party with the burden of proof on an issue) will be able to designate experts and provide the reports required by Rule 26(a)(2)(B), and when the opposing party will be able to designate responsive experts and provide their reports.
- g) List expert depositions the plaintiff (or the party with the burden of proof on an issue) anticipates taking and their anticipated completion date. *See* Rule 26(a)(2)(B) (expert report).
- h) List expert depositions the opposing party anticipates taking and their anticipated completion date. *See* Rule 26(a)(2)(B) (expert report).

13. If the parties do not agree on any portion of the discovery plan, describe the separate views and proposals of each party.

14. Specify the discovery beyond initial disclosures that has been undertaken to date.

15. State the date the planned discovery can reasonably be completed.

#### Settlement and Trial Alternatives

16. Describe the possibilities of settlement or alternative dispute resolution which were discussed at the Rule 26(f) meeting.

17. Describe what each party has done or agreed to do to bring about a prompt resolution.



18. From the attorneys' discussion with the client, state the alternative dispute resolution techniques that are reasonably suitable, and state when such a technique may be effectively used in this case.
19. Magistrate judges may now hear jury and non-jury trials. Will the parties consent to trial before a Magistrate Judge?
20. State whether a jury demand has been made and if it was made on time.
21. In the event of a trial, how many **hours** will it take to try this case?

Additional Conference Items

22. If there are any motions pending before the Court at this time, list them.
23. Can any of these motions be ruled upon at the initial pretrial and scheduling conference?
24. Are there any other matters peculiar to this case, including discovery, which deserve the special attention of the Court at the conference?
25. **Proposed Dates for Scheduling.** Please review the proposed deadlines for many of the pretrial events (listed below) that will be scheduled for this case. Both the events and the proposed dates are intended to give the parties guidance in (1) formulating answers to the other parts of this questionnaire and (2) scheduling the events preceding the trial. The Scheduling Order that will be entered at the Scheduling Conference will necessarily be more specific, more detailed, and contain additional matters and discovery limitations. The court's suggested dates and events may be appropriate for this case. If not, please propose suggested modifications that the parties believe are suited for this lawsuit. As indicated below by asterisks, some dates and events are "inflexible" because of limited judicial resources and the court's calendar.

| PRETRIAL EVENTS                   | COURT'S PROPOSED DATES | PARTIES' PROPOSED DATES |
|-----------------------------------|------------------------|-------------------------|
| <b>Rule 26(f) meeting*</b>        |                        |                         |
| <b>File case management plan*</b> |                        |                         |

|  |  |  |
|--|--|--|
| <b>Rule 16(b) scheduling conf.*</b>  |  |  |
| <b>Rule 26(a)(1) initial disclosures*</b>  |  |  |
| <b>Deadline for joinder of all parties</b>   |  |  |
| <b>Deadline for plaintiff to designate expert witnesses and provide reports</b>  |  |  |
| <b>Deadline for defendant to designate expert witnesses and provide reports</b>  |  |  |
| <b>Discovery deadline</b>  |  |  |
| <b>Deadline to complete ADR</b>  |  |  |
| <b>Deadline to amend pleadings (with parties consent or leave of Court)</b>  |  |  |
| <b>Deadline to file contested motions*</b>   |  |  |
| <b>Deadline to file joint pretrial order, motions in limine &amp; proposed jury instructions (or proposed findings of fact &amp; conclusions of law)</b> |  |  |
| <b>Pretrial conference &amp; trial scheduling*</b>   |  |  |

26. List the names, bar numbers, addresses, and telephone numbers of all counsel.

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
LAREDO DIVISION**

|                   |   |                                     |
|-------------------|---|-------------------------------------|
| <b>Plaintiff,</b> | § |                                     |
|                   | § |                                     |
|                   | § | <b>CIVIL ACTION NO. 5: __-CV-__</b> |
|                   | § |                                     |
| <b>vs.</b>        | § |                                     |
|                   | § |                                     |
|                   | § |                                     |
| <b>Defendant.</b> | § |                                     |

**JOINT PRETRIAL ORDER**

1. **Appearance of Counsel.** List each party, its counsel, and counsel's address and telephone number in separate paragraphs.
2. **Statement of the Case.** Give a brief statement of the case, one that the Judge could read to the jury panel for an introduction of the facts and parties; include names, dates, and places.
3. **Jurisdiction.** Briefly specify the jurisdiction of the subject matter and the parties. If there is an unresolved jurisdictional question, state it.
4. **Motions.** List pending motions.
5. **Contention of the Parties.** State concisely in separate paragraphs each party's claims.
6. **Admission of Fact.** List all facts that require no proof.
7. **Contested Issues of Fact.** List all material facts in bona fide controversy.
8. **Agreed Propositions of Law.** List the legal propositions that are not in dispute.
9. **Contested Propositions of Law.** State briefly the unresolved questions of law, with authorities to support each.
10. **Exhibits.**
  - A. Each party will attach two lists of all exhibits expected to be offered and will make the exhibits available for examination by opposing counsel. All documentary exhibits must be exchanged before trial, except for rebuttal exhibits or those whose use cannot be anticipated.

- B. A party requiring authentication of an exhibit must notify the offering counsel in writing within five days after the exhibit is listed and made available; failure to object in writing in advance of the trial concedes authenticity.
  - 1) Within reason, other objections to admissibility of exhibits must be made at least three business days before trial with copies of the disputed exhibit and authority.
  - 2) Parties must mark their exhibits to include the date and case number on each.
  - 3) At the trial, the first step will be the offer and receipt in evidence of exhibits.
- 11. **Witnesses.**
  - A. On a separate form, each party will attach four lists with the names and addresses of witnesses who may be called with a brief statement of the nature of their testimony.
  - B. Include: If other witnesses to be called at the trial become known, their names, addresses, and subject of their testimony will be reported to opposing counsel in writing as soon as they are known; this does not apply to rebuttal or impeachment witnesses.
- 12. **Settlements.** State that all settlement efforts have been exhausted, and the case will have to be tried.
- 13. **Trial.** State estimated length of trial and logistical problems, including availability of witnesses, out-of-state people, bulky exhibits, and documentation.
- 14. **Attachments.** Each party must file as a separate document (captioned, signed by counsel, and with service certified) these required attachments in duplicate.
  - A. For a jury trial:
    - (1) Proposed questions for the *voir dire* examination.
    - (2) Proposed charge, including instructions, definitions, and special interrogatories, with authority.
  - B. For a non-jury trial:
    - (1) Proposed findings of fact with agreed and contested ones separated.
    - (2) Conclusions of law with authority.

\_\_\_\_\_  
United States District Judge

Date: \_\_\_\_\_

Approved by:

\_\_\_\_\_  
Attorney-in-Charge, Plaintiff

Date: \_\_\_\_\_

\_\_\_\_\_  
Attorney-in-Charge, Defendant

Date: \_\_\_\_\_

|   |  |                            |  |
|---|--|----------------------------|--|
| UNITED STATES DISTRICT COURT  |  | SOUTHERN DISTRICT OF TEXAS |  |
| <i>VERSUS</i> - - - - -   | CIVIL ACTION NO.                           |                            |  |
|   | <b>EXHIBIT LIST</b>                        |                            |  |
| JUDGE MARINA GARCIA MARMOLEJO   | CASE MANAGER:      ANGIE TREVIÑO           |                            |  |
| LIST OF<br><br><input type="checkbox"/> GOVERNMENT <input type="checkbox"/> DEFENDANT | PROCEEDING:                      DATE (S): |                            |  |

| No. | DESCRIPTION | OBJ | ADM | NOT<br>ADM | DATE |
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| UNITED STATES DISTRICT COURT  |  | SOUTHERN DISTRICT OF TEXAS                 |  |
| <i>VERSUS</i> - - - - -   |  | CIVIL ACTION NO.                           |  |
|   |  | <b>WITNESS LIST</b>                        |  |
| JUDGE MARINA GARCIA MARMOLEJO   |  | CASE MANAGER:      ANGIE TREVIÑO           |  |
| LIST OF<br><input type="checkbox"/> GOVERNMENT <input type="checkbox"/> DEFENDANT |  | PROCEEDING:                      DATE (S): |  |
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**NOTICE OF THE RIGHT TO TRY  
A CIVIL CASE BEFORE A MAGISTRATE JUDGE**

With the consent of all the parties, a United States Magistrate Judge may preside in a civil case, including jury trial and final judgment.

The choice of trial before a magistrate judge is entirely yours. Tell only the clerk. Neither the judge or magistrate judge will be told until all the parties agree.

The district judge to whom your case is assigned must approve the referral to a magistrate judge.

You may get consent forms from the clerk.

DAVID BRADLEY, *CLERK*



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
LAREDO DIVISION**

|                   |   |                                     |
|-------------------|---|-------------------------------------|
| <b>Plaintiff,</b> | § |                                     |
|                   | § |                                     |
|                   | § | <b>CIVIL ACTION NO. 5: __-CV-__</b> |
|                   | § |                                     |
| <b>vs.</b>        | § |                                     |
|                   | § |                                     |
|                   | § |                                     |
| <b>Defendant.</b> | § |                                     |

**CONSENT TO PROCEED BEFORE A MAGISTRATE JUDGE**

All parties to this case waived their right to proceed before a District Judge and consent to have a United States Magistrate Judge conduct all further proceedings, including the trial and judgment. 28 U.S.C. § 636(c).

| <u>Signatures and Typed Names</u> | <u>Party Represented</u> | <u>Date</u> |
|-----------------------------------|--------------------------|-------------|
| _____                             | _____                    | _____       |
| _____                             | _____                    | _____       |
| _____                             | _____                    | _____       |
| _____                             | _____                    | _____       |
| _____                             | _____                    | _____       |

**ORDER TO TRANSFER**

This case is transferred to United States Magistrate Judge \_\_\_\_\_ to conduct all further proceedings, including final judgment.

|               |                                       |
|---------------|---------------------------------------|
| _____<br>Date | _____<br>United States District Judge |
|---------------|---------------------------------------|

**NOTE:** RETURN THIS FORM TO THE CLERK OF THE COURT ONLY IF ALL PARTIES HAVE CONSENTED ON THIS FORM TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE.

## UNITED STATES DISTRICT COURT

## SOUTHERN DISTRICT OF TEXAS

Motion and Order for Admission *Pro Hac Vice*

|               |  |             |  |
|---------------|--|-------------|--|
| Division      |  | Case Number |  |
|               |  |             |  |
| <i>versus</i> |  |             |  |
|               |  |             |  |

|   |          |
|---|----------|
| Lawyer's Name<br>Firm<br>Street<br>City & Zip Code<br>Telephone<br>Licensed: State & Number<br>Federal Bar & Number |          |
| Seeks to appear for this party:   |          |
| Dated:  | Signed*: |

\*I understand that the Court requires strict compliance with the Local Rules for the Southern District of Texas and the Court Procedures for District Judge Garcia Marmolejo, which are applicable to cases assigned to Judge Garcia Marmolejo. The rules are available by visiting the Court's website.

|   |                    |
|---|--------------------|
| The state bar reports that the applicant's status is: . |                    |
| Dated:  | Clerk's signature: |

|       |
|-------|
| Order |
|-------|

This lawyer is admitted *pro hac vice*.

Dated: \_\_\_\_\_

\_\_\_\_\_  
 Marina Garcia Marmolejo  
 United States District Judge